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Chairman: Mr. Al-Hinai ..... (Oman)

Contents

Organization of work

Agenda item 118: Right of peoples to self-determination

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The meeting was called to order at 10.40 a.m.

Organization of work

1. **The Chairman** said that the report of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, recently held in Durban, South Africa, had not yet been published, at the request of the High Commissioner for Human Rights, as a result of a fundamental disagreement regarding the deliberations of the Conference itself. Following a discussion, the Bureau of the Committee proposed that, since the report was not ready for publication, the Committee's consideration of agenda item 117, "Racism and racial discrimination", should not begin until the report had been issued. It further proposed that, in the meantime, the Committee should immediately begin its consideration of agenda item 118: "Right of peoples to self-determination". Any delegation wishing to take the floor on item 118 could do so, while delegations already inscribed on the list of speakers for both items could advise the Secretariat if they wished to speak at another time.

2. If the Committee agreed to that procedure, the splitting of the consideration of those items would be the result of extraordinary circumstances and would not constitute a precedent. The proposal of the Bureau acknowledged the importance of item 117 to the work of the Committee, and had been made in an effort to assist the Committee in meeting its responsibilities in the most effective way.

3. **Mr. Xie** Bohua (China) asked about the impact of splitting the consideration of those items on the time available to the Committee to complete its programme of work, and when the report of the Durban Conference would be available.

4. **The Chairman** said that the Committee could extend two days past its deadline for completion of its work if necessary. He could not predict when the report would be available, but the Secretariat was making every effort to speed its issuance.

5. **Mr. Andrabi** (Pakistan) requested clarification on deadlines for submission of draft resolutions under those items.

6. **The Chairman** said that current deadlines for submission of draft resolutions and inscription on the list of speakers would be waived.

7. He would take it that the Committee wished to proceed as the Bureau had proposed.

8. *It was so decided.*

Agenda item 118: Right of peoples to self-determination (A/56/224, A/56/295 and A/56/462-S/2001/962)

9. **Mr. Bernales Ballesteros** (Special Rapporteur on the use of mercenaries as a means of impeding the exercise of the right of peoples to self-determination), introducing his report (A/56/224), said that in addition to mercenary activities impeding self-determination, he had concentrated his work on criminal acts that violated human rights where mercenary involvement was suspected, including illicit trafficking and terror. Since the completion of his written report, he had received requests to visit El Salvador, Panama and the United States of America to investigate complaints that mercenaries had been used to launch attacks against Cuba from the territories of those three countries. He was also still awaiting a reply to his letter to the Government of Peru regarding the activities of Vladimiro Montesinos described in paragraphs 19 to 23 of his report. The Government's reply could provide the key to unmasking a system of human rights violations where mercenary activity appeared to be a major factor.

10. The first of two meetings of experts on the subject of mercenaries had been held in Geneva in January 2001. Subjects addressed had included private security companies offering military services and their participation in the formation of private armies. The experts had also reviewed the definition of "mercenary" and had noted that it should include motive, purpose, payment, type of action and nationality. Given the serious challenges posed by terrorism, a second meeting of experts would be convened in the near future.

11. Turning to mercenary activities in Africa, he drew attention to the problems in West Africa. Its wealth in minerals and oil, coupled with prevailing political instability and protracted armed conflicts, had attracted unscrupulous traders, and of course, mercenaries were not absent from their criminal operations. A policy of protection of the right to life, liberty, personal integrity and security and respect for State sovereignty must be adopted for Africa. The General Assembly and the

Security Council had taken some steps in that direction, which must be supported.

12. The possible connections between acts of terrorism and mercenaries must be explored in greater depth, given the current world situation. It would be a mistake to rule out connections between mercenary activity and terrorist acts, although the relationship was neither ongoing nor systematic. The majority of terrorist attacks were the result of distorted religious, political or philosophical views which brought the perpetrators to the point of devaluing human life. But there were other motivations, usually political or economic, which led Governments to include terrorist acts in their strategies to achieve their objectives or destroy opponents. An analysis of such covert activities showed that the use of mercenaries was often resorted to, because of their effectiveness. The act was still terrorist in nature, but it took on a mercenary character because of the executing agent. Terrorist operations were diffuse, fragmented, anonymous at all stages of preparation and indiscriminate in their targets, which would facilitate the use of mercenaries in their execution. Therefore, measures to prevent mercenaries from operating would also help to combat terrorism, as they would help in uncovering secret networks.

13. The Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism should take the possible connection between mercenaries and terrorism into account in its deliberations. In the same way, the General Assembly should remind States of their obligation not to encourage any activity, whether directly or indirectly, which might support terrorism, in addition to their obligation to prevent, investigate and punish the use and financing of mercenaries. Regrettably, thus far vigorous international action against mercenarism had been lacking. Many known mercenaries had never been brought to justice, and mercenary networks had taken shelter in the tendency of Governments, under pressure from powerful interests, to look the other way. Such permissiveness was dangerous and must cease. He also proposed that all States should agree to prohibit their intelligence services from participating in any covert activity that, under the pretext of achieving political or economic objectives, could result in a terrorist attack, whatever its method of execution.

14. Lastly, he was pleased to announce that Costa Rica had become the twenty-second State party to the International Convention against the Recruitment, Use, Financing and Training of Mercenaries, and accordingly, it had entered into force on 22 October 2001.

15. **Ms. El-Hajjaji** (Libyan Arab Jamahiriya) said that the mandate of the Special Rapporteur had acquired special relevance in the light of the recent terrorist attacks. In view of the correlation between the use of mercenaries and terrorism, the Special Rapporteur should cooperate closely with the Special Rapporteur on terrorism and human rights of the Subcommission on the Promotion and Protection of Human Rights. Her delegation wondered whether the delay in the entry into force of the International Convention against the Recruitment, Use, Financing and Training of Mercenaries was due to the inadequate definition of mercenaries. The Special Rapporteur had shown courage in naming the causes of terrorism, which included religious extremism and extremist ideologies, as well as lack of justice.

16. **Mr. Ferrer** (Cuba), having paid tribute to the work of the Special Rapporteur, which had received criticism from certain quarters, said that his mandate clearly related also to human rights and terrorism. The definition must evidently be broadened to include new forms and manifestations of the use of mercenaries, and the question of their nationality should also be addressed.

17. **Mr. Bernales Ballesteros** (Special Rapporteur on the use of mercenaries as a means of impeding the exercise of the right of peoples to self-determination) welcomed the fact that 22 States had now ratified or acceded to the Convention and that nine others were ready to join. The delay in its entry into force had indeed been the result of problems surrounding the definition of mercenaries, which was clearly inadequate. Moreover, the Convention lacked a monitoring mechanism — an evident lacuna in international law. In order to enhance the effectiveness of efforts to combat the use of mercenaries, the General Assembly should adopt a legal definition of mercenary by 2003 at the latest. He agreed that the question of the nationality of mercenaries should also be incorporated, and that it was vital to address the many root causes of terrorism, which included the injustice that incited people to commit desperate acts.

18. **Mr. Maertens** (Belgium), speaking on behalf of the European Union, said that the right to self-determination featured prominently in core human

rights instruments and in the Charter of the United Nations. Indeed, one of the purposes of the Organization was to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples. The right to self-determination — which had lost none of its relevance — illustrated the interdependence and indivisibility of human rights. The freedom of opinion and expression and the freedom of conscience and religion were particularly crucial to its effective realization, as was the right of assembly and the holding of free and fair elections. In that connection, the European Union wished to reaffirm the importance of promoting and reinforcing the proper management of public affairs, democracy and the rule of law throughout the world. The process of democratization was also essential to the recognition of the right of peoples to self-determination.

19. **Mr. Roshdy** (Egypt) said that the right to self-determination was as old as humanity itself and a prerequisite for the guarantee of individual human rights. The Declaration on the Granting of Independence to Colonial Countries and Peoples stated that the subjection of peoples to alien subjugation, domination and exploitation constituted a denial of fundamental human rights, was contrary to the Charter of the United Nations and was an impediment to the promotion of world peace and cooperation. It also declared that all armed action or repressive measures of all kinds directed against dependent peoples should cease in order to enable them to exercise peacefully and freely their right to complete independence. Various instruments of international law affirmed the legitimacy of the struggle of occupied peoples, implying a right to struggle by every means available to them for recognition of their right to self-determination once peaceful means had been exhausted.

20. The Palestinian people were among the very few peoples in the world who continued to be deprived of their natural right to self-determination. It was beyond comprehension that the international community should allow the daily and pre-meditated killing and displacement of Palestinian children, women and older people. In pursuing its repressive measures against Palestinian civilians, Israeli occupation forces continued to defy both the will of the international community and international law.

21. **Mr. Xie** Bohua (China) said that the restoration of all legitimate rights of the Palestinian people and a just and equitable settlement of the question of Palestine were the keys to achieving durable peace in the Middle East. Concerned at the tension created by the continued armed invasion of Palestinian-controlled areas, his delegation called upon Israel to immediately cease its military operations and withdraw its forces completely from those areas.

22. The right to self-determination of all peoples was sacrosanct, and applied particularly to oppressed nations in their fight against imperialism and colonial rule. That right should not, however, be used as a pretext for supporting acts that violated the territorial integrity and sovereignty of nations and undermined national unity. Such acts must be strongly condemned by the entire international community.

23. **Mrs. Barghouti** (Observer for Palestine) said that the world had witnessed myriad forms of colonization, subjugation, domination and foreign occupation, but that the sufferings of the Palestinian people under more than three decades of Israeli occupation were unparalleled. The international community — in particular the United Nations — must take swift and concrete measures to help the Palestinian people realize their inalienable right to self-determination, which included their right to an independent State with Jerusalem as its capital. A comprehensive, permanent and lasting peace in the Middle East depended on resolution of that core issue, not merely on sporadic attempts to calm the situation on the ground. Moreover, the near-unanimous position of the international community in support of Palestinian rights must be given concrete follow-up.

24. A bloody military campaign had been waged against the Palestinian people since the beginning of the second intifadah in September 2000. Excessive and indiscriminate use of force by Israeli troops had caused 700 Palestinian deaths and more than 25,000 injuries. On occasion, they had even resorted to war crimes and terrorism. The occupying Power continued to pursue its oppressive policies and practices, including expansion of settlements and confiscation of lands, in flagrant violation of international law and applicable United Nations resolutions. The plight of Palestine refugees and displaced persons was a further cause for concern.

25. The recent deterioration of the situation had greatly undermined any efforts to create an

environment conducive to the resumption of negotiations. Israel's escalation of violence was clearly intended to jeopardize recent positive developments in affirming the right of the Palestinian people to a State. Palestine nevertheless remained committed to the peace process and to the implementation of all signed agreements. She wished to stress that the Palestinian people had made historical compromises in order to achieve their national aspirations and to live in peace and dignity. They would persevere in their struggle until they achieved their inalienable rights and could participate proudly as a full Member of the United Nations. It was her delegation's firm conviction that a people pursuing a just cause could not be defeated. The cases of South Africa and Namibia were an inspiration in that regard.

The meeting rose at 11.55 a.m.